REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application. Claims 1-8, 10, and 12-15 are pending in the application.

Claim Rejections under § 102(e)

Claims 1, 2, 4, and 12-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2003/0167318 to Robbin et al. (hereinafter "Robbin"). Applicant respectfully traverses this rejection.

Claim 1 is amended and, as amended, recites a computer-readable medium comprising computer-executable instructions that perform the following when executed by a computer (emphasis added):

- receiving a request to perform a media operation with respect to a media file, wherein the receiving is through a user interface;
- determining a media provider from a plurality of media providers to which the media file is attributable;
- assessing if the media provider allows the media operation to be performed with respect to the media file;
- performing the requested media operation if allowed by the media provider; and
- denying the requested media operation if not allowed by the media provider.

In making out the rejection of this claim the Office argues claim 1 is anticipated by Robbin. Applicant respectfully disagrees. Nevertheless, without conceding the propriety of the rejection and in the interests of expediting allowance of the application, claim 1 has been amended to recite, "a computer readable medium comprising computer-executable instructions that perform the following when executed by a computer, receiving a request to perform a media

operation with respect to a media file, wherein the receiving is through a user interface, determining a media provider from a plurality of media providers to which the media file is attributable…and denying the requested media operation if not allowed by the media provider." Applicant respectfully submits that Robbin does not disclose, teach, or suggest the disclosed subject matter. Applicant notes, that while no formal agreement was reached, the Examiner tentatively agreed during the above-referenced interview that the cited reference did not appear to disclose these claim elements.

Dependent claims 2, 4, and 12-15 depend from claim 1 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 1, are neither shown nor suggested by the reference of record.

§ 103 Rejections

Claims 3 and 5-8 stand rejected under 35 U.S.C.§103(a) as being obvious over Robbin. This rejection is respectfully traversed because the Office has failed to establish a *prima facie* case of obviousness, for at least the reasons outlined below.

Claim 10 stands rejected under 35 U.S.C. §103(a) as being obvious over Robbin in view of U.S. Patent Applicant No. 2002/0010759 to Hitson et al. (hereinafter "Hitson"). This rejection is respectfully traversed because the Office has failed to establish a *prima facie* case of obviousness, for at least the reasons outlined below.

Claim 3 depends from independent claim 1. In making out the rejection of claim 3, the Office acknowledges that Robbin "does not explicitly disclose the

unique identifier being a header." However, the Office takes Official Notice that "the use of headers as unique identifiers are well known in the art...."

Applicant respectfully disagrees and traverses this rejection. First, as noted above, Applicant submits that the Office has mischaracterized the cited references from Robbin which are silent with respect to "receiving a request...with respect to a media file", "determining a media provider to which the media file is attributable" and "assessing if the media provider allows the media operation to be performed with respect to the media file."

Second, Applicant traverses the Office's assertion of Official Notice and disagrees that "the use of headers as unique identifiers are well known in the art." Furthermore, this asserted fact is not capable of instant and unquestionable demonstration as being well-known and the Office has not cited a reference in this regard. Accordingly, this assertion of Official Notice is not appropriate. Applicant respectfully reminds the Office that "[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known." (See MPEP 2144.03 citing In re Ahlert, 424 F.2d at 1091, 165 USPQ at 420-21. See also In re Grose, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979)).

Robbin cannot be said to disclose or suggest all of the subject matter of claim 3. Accordingly, for at least this reason, this claim is allowable.

Claims 5 and 8 depend from independent claim 1. In making out the rejection of claims 5 and 8, the Office acknowledges that Robbin "does not explicitly disclose assessing code and/or information from a remote source."

However, the Office takes Official Notice that "assessing code and/or information from a remote source is well known in the art...."

Applicant respectfully disagrees and traverses this rejection. First, as noted above, Applicant submits that the Office has mischaracterized the cited references from Robbin which are silent with respect to "receiving a request...with respect to a media file", "determining a media provider to which the media file is attributable" and assessing if the media provider allows the media operation to be performed with respect to the media file."

Second, Applicant traverses the Office's assertion of Official Notice and disagrees that "assessing code and/or information from a remote source is well known in the art...." Furthermore, this asserted fact is not capable of instant and unquestionable demonstration as being well-known and the Office has not cited a reference in this regard. Therefore, this assertion of Official Notice is not appropriate.

Robbin cannot be said to disclose or suggest all of the subject matter of claims 5 and 8. Accordingly, for at least this reason, these claims are allowable.

Claim 10 depends from independent claim 1. In making out the rejection of this claim, the Office argues Robbin and Hitson disclose or suggest all of the subject matter of these claims and that it would have been obvious to combine their teachings.

Applicant respectfully disagrees. As noted above, Robbin fails to disclose all the subject matter of independent claim 1. Furthermore, Hitson fails to remedy this deficiency. As such, Robbin and Hitson cannot be said to disclose or suggest all of the subject matter of this dependent claim, either singly or in combination. Accordingly, for at least this reason, this claim is allowable.

Conclusion

All of the claims are in condition for allowance. Accordingly, Applicant requests a Notice of Allowability be issued forthwith. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a call to discuss any remaining issues.

Respectfully Submitted,

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By: _____

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